

ATTACHMENT 4

Omicron Technologies, LLC
543 Edgemont Avenue
Lansdale, PA 19446-1909
(609) 915-0776

February 24, 2013

Operational SPIN Change
Schools and Libraries
30 Lanidex Plaza West
PO Box 685
Parsippany, NJ 07054-0685

VIA FAX TO (973) 599-6526 AND FIRST-CLASS MAIL

RE: SERVICE PROVIDER OBJECTION TO OPERATIONAL SPIN CHANGE, FRN 1334733 (AMENDMENT)

To whom it may concern:

On February 24th, 2013, we wrote to your office with an objection to the operational spin change that was filed by San Jose Conservation Corps Charter School (BEN 228886) for 471 application 482177, FRN 133473 from SPIN 143027415 (Omicron Technologies, LLC) to SPIN 143034534 (Network Focus, Inc).

In that correspondence, we objected to this SPIN change on the grounds that it violated established FCC rules, including:

- a) SPIN changes must be allowable under the terms of the contract, if any, between the applicant and its original service provider.
- b) The original service provider must be notified of the intent to change service providers.
- c) There is a legitimate reason to change providers.
- d) The newly selected service provider received the next highest point value in the original bid evaluation.

We wish to now amend this complaint to include the following:

- 1) The SPIN change is not allowable under the applicant's state and local procurement rules:**
California Public Contract Code Section 20110-20118.4 governs the procurement rules that a school must follow when procuring more than \$50,000 of equipment. These rules show that the school must go through a public bidding process (which it did in funding year 2005). According to USAC records, Network Focus, Inc was not certified in 2005 and to our knowledge was never an original bidder. Not that we believe it would have been legal anyway, the school did not go through a new bidding process after the appeal for this FRN was approved. Instead, it is attempting to award the FRN to an organization that it uses for its internal connections maintenance since 2010 through a no-bid process without just cause. This is clearly a violation of both the law as well as the legislative intent.

2) With respect to our original claim that the original service provider must be notified of the intent to change service providers:

Charles Skinner of Omicron Technologies had a telephone conversation with John Egan, President of the FundEd Consulting Group, the school's e-rate consultant, at 2:03pm (ET) on Wed 02/27/2013. In that conversation, Mr. Egan confirmed that his company did not notify us about the intent to change service providers. We followed-up with an email to Mr. Egan confirming these facts on Fri 03/01/2013 at 5:08am (ET).

Based on the above, along with our previous filing, we would respectfully request the operational SPIN change be reversed immediately and the billed entity be barred from making any similar changes in the future. Please feel free to contact me about this matter at (609) 915-0776 or at charles@omicrontechnologies.net.

Sincerely,

Charles S. Skinner
President and CEO